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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,771	09/15/2003	Alan Kathman	DOC.059CIP1	7279
30310	7590	09/29/2005	EXAMINER	
DIGITAL OPTICS CORPORATION 9815 DAVID TAYLOR DRIVE CHARLOTTE, NC 28262			RODRIGUEZ, ARMANDO	
			ART UNIT	PAPER NUMBER
			2828	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,771

Applicant(s)

KATHMAN ET AL.

Examiner

ARMANDO RODRIGUEZ

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,9-14 and 17-24 is/are allowed.
- 6) ☒ Claim(s) 2-8,15,16 and 25-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-8, 15, 16 and 25-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 6 recites the limitation "the input beam" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the first photodiode" and "the second photodiode" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 6, 7 and 15 recites the limitation "the input beam" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the first beam" and "the second beam" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the beam" in page 19 line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the input beam" in page 19 line 7. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 25,

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The recited limitation of "a set having a value" is vague and indefinite, it is not clear what applicant defines as "a set", thereby a proper search of the limitation has not been conducted.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Murry et al (US 2002/0172237).

Figure 16 illustrates a wavelength locker having a plurality of photosensors (1618) [applicant's first, second, third detector]. Paragraph [0176] discloses the wavelength as a plurality of discrete lasing wavelengths [applicant's periodic]. The figure also illustrates a waveguide (30) [applicant's optical element] for guiding the wavelength to the photosensors and a wavelength locker circuit (1620) [applicant's processor].

Regarding claims 28 and 29,

It is an inherent characteristic for the discrete wavelengths to resemble a sinusoid and to have a non-zero slope.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murry et al (US 2002/0172237) as applied to claim 25 above and further in view of Ip (US 5,283,845).

Regarding claims 26 and 27,

Murry et al does disclose in paragraph [0176] the use of filters (1614) having a passband, but is silent as to the filter being an etalon.

However, Ip discloses in column 1 lines 12-17 that etalon filters are bandpass filters [applicant's etalon].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to combine an etalon filter with the wavelength locker of Murry et al because etalon filters will provide wavelength selection, as disclosed by Ip.

Allowable Subject Matter

Claims 1, 9-14, 17-24 are allowed.

The following is an examiner's statement of reasons for allowance:

After conducting a search none of the searched references discloses the claimed wavelength locker with the recited structural combination of independent claim 1 having in particular a substrate with an etalon with two sections, where the two sections have different free spectral range and being traversed by the first portion of the beam, where the etalon is located in a path upstream of the first photodetector.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 2-8, 15, 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARMANDO RODRIGUEZ whose telephone number is 571-272-1952. The examiner can normally be reached on 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MINSUN HARVEY can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ARMANDO RODRIGUEZ
Examiner
Art Unit 2828

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